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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
WHITE PLAINS DIVISION

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In re: Chapter 11

BUHRE BEVERAGE DISTRIBUTION, INC. Case No.: 14-22048(rdd)

Debtor.

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In re:

WILLIAM SANCHEZ, Adv. Pro. No.: 14-08218(rdd)
Plaintiff,
-against-

BUHRE BEVERAGE DISTRIBUTION, INC.
BHAVEEN SAPRA, BRUCKNER BEVERAGE, INC.
and PEPSI COLA BOTTLING COMPANY OF NEW
YORK, INC.

Defendants.

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**REQUEST FOR DEFERMENT OR DENIAL OF MOTION
FOR SUMMARY JUDGMENT OF WILLIAM SANCHEZ**

BUHRE BEVERAGE DISTRIBUTION, INC., the debtor herein (the "Debtor") hereby requests deferment or denial of the motion of William Sanchez ("Sanchez") for summary judgment for the reasons set forth below:

1. The motion for summary judgment, which seeks primarily an adjudication that Sanchez holds a secured claim, should be denied or deferred for primarily three reasons.

2. First, Sanchez provided insufficient notice of the motion which was filed on September 5, 2014 (less than the time period required under applicable rules) and never served on the undersigned. A copy of the docket reflecting the filing is annexed hereto as Exhibit A. Counsel never received a copy of the documents. Even though the docket indicates that a copy was mailed on September 5, 2014, counsel never received hard copies.¹ Given the extensive nature of the motion, it is simply not possible for the Debtor to address it on a shortened time frame proposed by Sanchez. This is especially understandable given the fact that the Debtor and counsel supervised a bidding process on the sale of the Debtor's assets and was required to address numerous inquiries from prospective purchasers on an expedited basis. The Debtor's efforts will be detailed in a separate report to the Court to be filed in connection with the proposed sale.

3. Second, Sanchez had indicated, in sum and substance, during a conference, that the motion was time sensitive because he intended to submit a "credit bid" on the sale of the Debtor's assets. However, notwithstanding that representation, no bid was made by Sanchez. As such, it would appear that the classification of Sanchez's claim is no longer "urgent."

4. Third, there are significant questions of fact that require discovery. Sanchez implicitly acknowledged this fact by serving the Debtor with discovery demands. Annexed hereto as Exhibit C is Sanchez's Notice of Examination of the Debtor. Manifestly,

¹ Although not served with a hard copy, counsel, who had been expecting the motion based upon a letter filed by Sanchez on July 8, 2014 and a telephone conference shortly thereafter. A copy of the letter is annexed hereto as Exhibit B. However, given the time lag and other developments in the case, counsel did not expect the motion to be made. For weeks, since July 8, 2014, counsel was waiting for the motion which she was advised would be filed promptly. When, counsel was served with a discovery demand (See Exhibit C), she necessarily inferred that the motion was not going to be made.

Sanchez would not have served discovery had he not believed that there are factual issues which require discovery.

WHEREFORE, the Debtor respectfully prays that this Court deny or defer the motion for summary judgment and that it grant such other and further relief as is just and proper.

Dated: September 19, 2014
White Plains, NY

PENACHIO MALARA, LLP
/s/ Anne Penachio
Anne Penachio
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